

**Planning Commission Minutes
January 16, 2014**

Public Hearing

Case No. 13ZONE1018

Project Name: The Standard at Louisville

Location: 1900 South Floyd Street

Owner: Cardinal Land Development LLC
8911 Greenway Commons Place
Louisville, KY 40220

Applicant: 908 Development Group
2209 E. 7th Avenue Suite C
Tampa, FL 33605

Representative: Deborah Bilitski
Wyatt, Tarrant & Combs, PLLC
500 W. Jefferson Street Suite 2800
Louisville, KY 40202

Architect/Engineer: Ann Richard RLA
Land Design & Development, Inc.
503 Washburn Avenue Suite 100
Louisville, KY 40222

Jurisdiction: Louisville Metro
Council District: 6 – David James

Case Manager: **Christopher Brown, Planner II**

Notice of this public hearing appeared in **The Courier Journal**, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Request:

Change in zoning from EZ-1 Enterprise Zone to C-2 Commercial for a proposed multi-family structure located at 1900 South Floyd Street (Tax Block 035C, Lot 0004) containing 1.6 acres and being in Louisville Metro. A Detailed District

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Development Plan with setback and height variances, and landscape waivers are also being requested.

Agency Testimony:

02:38:33 Christopher Brown presented the case and showed a Power Point presentation, which included maps and photos of the site and surrounding areas (see staff report and audio-visual recording for detailed presentation.) He said that there was one correction to the staff report regarding Variance #2 – a variance from Chapter 5.2.2, Table 5.2.2 of the Land Development Code to allow the building to exceed the 45' maximum height by 36'. The height variance request should be **40 feet**, not 36 feet as is stated in the staff report, for a total building height of 85 feet.

02:44:22 Mr. Brown explained how the pedestrian connection from the building to Floyd Street has been amended on the site plan since the LD&T Committee meeting. The connection has been amended to address slope issues at that corner.

The following spoke in favor of this request:

Deborah Bilitski, Wyatt, Tarrant & Combs, PLLC, 500 W. Jefferson Street Suite 2800, Louisville, KY 40202

Ann Richard RLA, Land Design & Development, Inc., 503 Washburn Avenue Suite 100, Louisville, KY 40222

Summary of testimony of those in favor:

02:47:23 Deborah Bilitski, the applicant's representative, showed the applicant's Power Point presentation. She discussed the waiver and variance requests, which are primarily being requested because the proposal is for residential use with no commercial.

02:52:51 Commissioner Jarboe asked about the steps leading down to Brandeis. Ms. Bilitski said changes have been made to the site plan since the LD&T Committee meeting. Ann Richard, with Land Design & Development, explained those changes in detail. She said the steps and sidewalk have been removed from the Brandeis ROW. There are three doors from the building onto the Floyd Street ROW – the sidewalk has been added coming from the building, closer to the intersection of Brandeis and Floyd Streets.

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The following spoke in opposition to this request:

No one spoke.

The following spoke neither for nor against this request:

No one spoke.

Rebuttal:

There was no rebuttal, since no one spoke in opposition.

Discussion:

02:54:08 All of the Commissioners said they supported the proposal, based on the evidence presented today and the staff report.

An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the January 16, 2014 public hearing proceedings.

Zoning

On a motion by Commissioner White, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission ("Planning Commission") finds that the proposed change in zoning from EZ-1 Enterprise Zone to C-2 Commercial on the property located at 1900 S. Floyd Street (the "subject property") complies with Guideline 1 of the Cornerstone 2020 Comprehensive Plan (the "Comprehensive Plan") because the subject property is located within the Campus Form District; Guideline 1.B.11 provides that the Campus Form District typically contains a mixture of uses clustered for a single or predominant function which primarily serve the people who work or live on the campus; development and redevelopment should be consistent with the organization and pattern of the district; access should be provided by a series of well-connected streets that relate to the function of the major roadway network in surrounding districts and also encourage bicycle, pedestrian, and transit travel; a variety of land uses are encouraged in the Campus Form District to serve the daily needs of residents, students, and workers, including medium to high density residential

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uses, shops, services, offices and institutional uses, and proposed developments should also have adequate parking facilities that are convenient for motorists, but do not negatively impact the pedestrian environment; the proposed development will provide housing that will serve the need of students of the University; vehicular access to the proposed development will be from S. Floyd Street, which has adequate capacity to handle the traffic that will be generated by the proposed development; the development provides an adequate level of vehicular, pedestrian, bicycle, and transit connectivity because the development will include a bicycle parking area, and the existing sidewalk along the west side of S. Floyd Street will be repaired and improved; and the proposed building will incorporate high quality architectural design features that are compatible with development on U of L's campus and in the surrounding area; and

WHEREAS, the Commission further finds that the proposed change in zoning complies with Guideline 2 of the Comprehensive Plan because the subject site is located in an existing activity center at the intersection of E. Brandeis Avenue and S. Floyd Street, both minor arterials, west of I-65 and across the street from U of L; the provision of additional student housing enhances the mixture of uses within the Campus Form District; the proposed development will incorporate streetscape amenities, landscaping, pedestrian connections, and adequate on-site parking; the developer is committed to a high-quality architectural design for the proposed building. The building will be articulated to provide visual interest and will include brick and glass materials, transparent doorways and entry areas, and other animating features; and the proposed development will encourage vitality and a sense of place within and around the University of Louisville campus; and

WHEREAS, the Commission further finds that the proposed change in zoning complies with Guideline 3 of the Comprehensive Plan because the subject property is located on the northwest corner of the intersection of E. Brandeis Avenue and S. Floyd Street, west of I-65, in a mixed-use area, with an LG&E facility to the north, warehouses to the east, and railroad to the west, all of which are zoned EZ-1; immediately to the south across E. Brandeis Avenue is U of L, which is zoned OR-2; diagonally across E. Brandeis Avenue from the subject property is property zoned C-2 and M-2; and beyond the railroad tracks is a bookstore and a restaurant that are in the TNZD district; the proposed rezoning is compatible with existing zoning and will cause no adverse visual or noise impacts to the surrounding area; the proposed development will incorporate site design and architectural character that blends the existing industrial character of the

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area and the character of U of L's campus; and outdoor lighting and signage will meet the requirements of the Land Development Code; and

WHEREAS, the Commission further finds that the proposed change in zoning complies with Guidelines 4 and 5 of the Comprehensive Plan because there are no natural, scenic, environmental, or historic resources on the subject property that would restrict the proposed development; and outdoor open space for the residents of the development is provided on site in accordance with Land Development Code requirements; and

WHEREAS, the Commission further finds that the proposed change in zoning complies with Guideline 6 of the Comprehensive Plan because the proposed development will encourage redevelopment, rehabilitation and reinvestment opportunities in an older industrial areas that is consistent with the Campus form district pattern; the subject property is appropriate for the proposed development because it is located at the intersection of two minor arterial roadways with in close proximity to I-65 in an area where the activities of the proposed use will not adversely affect adjacent areas; and the proposal represents an excellent adaptive reuse of an old industrial site that will meet the University's housing needs within close proximity to U of L's main campus; and

WHEREAS, the Commission further finds that the proposed change in zoning complies with Guidelines 7, 8, and 9 of the Comprehensive Plan because the site is located at the northwest corner of the intersection of E. Brandeis Avenue and S. Floyd Street, both of which are classified as minor arterials, in close proximity to the I-65 interchange; S. Floyd Street and E. Brandeis Avenue have adequate carrying capacity for the traffic that will be generated by development; the access to the site and parking garage, which will be provided from S. Floyd Street, is located to facilitate safe vehicular and pedestrian access to and from the property; a separate bicycle storage area will also be provided; the sidewalk along S. Floyd Street will be improved to provide pedestrian access to and from the development; the subject property is located along local and circulator TARC routes, ensuring an adequate level of public transit service; therefore, the subject site is located where transportation infrastructure exist to ensure the safe and efficient movement of people and goods; and

WHEREAS, the Commission further finds that the proposed change in zoning complies with Guidelines 10 and 11 of the Comprehensive Plan because the subject site is not located in the 100-year flood plain, and there are no streams, wetlands, or waterways on the site; stormwater detention will be handled on site in an underground vault that will be designed to accommodate the runoff from the

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proposed development in accordance with regulatory requirements; and an erosion prevention and sediment control plan will be implemented prior to construction utilizing best management practices as required by the Metropolitan Sewer District; and

WHEREAS, the Commission further finds that the proposed change in zoning complies with Guideline 12 of the Comprehensive Plan because the proposal represents an efficient land use pattern and utilizes current traffic patterns; the close proximity of the subject property to the University's campus, bicycle and pedestrian amenities provided, and availability of TARC service will promote a reduction in vehicle miles traveled and increase pedestrian travel in an effort to reduce the air impacts of the development; the proposed development will also aid in reducing commuting time and transportation-related air pollution; and the existing and proposed roadway infrastructure provides adequate capacity for the additional traffic generated by this development; and

WHEREAS, the Commission further finds that the proposed change in zoning complies with Guideline 13 of the Comprehensive Plan because the subject property is an old industrial site with no existing landscaping or landscape buffer areas; the surrounding property is developed in a traditional urban pattern with minimal or no setbacks or landscape buffer areas; existing tree canopy within the E. Brandeis Avenue right-of-way will be preserved to meet Land Development Code requirements; and outdoor lighting and signage will be consistent with the Campus form of development and comply with Land Development Code requirements; and

WHEREAS, the Commission further finds that the proposed change in zoning complies with Guideline 14 and 15 of the Comprehensive Plan because the subject property is served by existing infrastructure which has adequate capacity for the proposed development; all necessary utilities, including water, electricity, telephone, and cable are available; and the development has an adequate supply of potable water and water for fire-fighting purposes and is served by the Louisville Fire Department; and

WHEREAS, the Commission further finds that the proposed development complies with KRS 100.213 in as much as the existing EZ-1 Enterprise Zone classification is not appropriate while the C-2 Commercial is appropriate; the property is located in the Campus Form District, which encourages a mixture of uses that serve the daily needs of residents and employees within the Campus; the EZ-1 zoning does not allow residential uses in a Campus Form District; therefore, the proposed C-2 zoning is appropriate to allow this industrial site to be

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redeveloped into student housing, which is appropriate in this Campus Form District; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, portions of the staff report, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative council of Louisville Metro Government that the Change in zoning from EZ-1, Enterprise Zone, to C-2, Commercial on property located at 1900 South Floyd Street as described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Blake, Brown, Tomes, Jarboe, Kirchdorfer, Turner, White, and Peterson.

NO: No one.

NOT PRESENT: Commissioners Hughes and Proffitt.

ABSTAINING: No one.

Variance #1 - Variance from Chapter 5.2.2, Table 5.2.2 of the Land Development Code to allow the building to encroach into the required 15' front yard along East Brandeis Avenue

On a motion by Commissioner White, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission ("Planning Commission") finds that the requested variance to permit the proposed structure to encroach 5 feet into the 15-foot required front yard along E. Brandeis Avenue will not adversely affect public health, safety or welfare because the subject property is located on the northwest corner of the intersection of E. Brandeis Avenue and S. Floyd Street, across from University of Louisville's Belknap campus; the properties further to the north along S. Floyd Street are industrial in nature and will not be adversely affected by the variance; directly to the west is a CSX Railroad, and across S. Floyd Street to the east are properties zoned EZ-1, which contain large warehouse buildings; the surrounding property is developed in predominantly a traditional urban pattern with minimal or no setbacks or

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landscape buffer areas; the proposed building will incorporate site design and architectural quality compatible with the character of the surrounding area, which blends the existing industrial character of the surrounding area with the more traditional architecture found on and around U of L's campus; the building facades will be constructed using a mixture of materials, including brick and glass, and will incorporate architectural features including windows and entryways consistent with traditional development in an urban setting; and sidewalks will be available along E. Brandeis Avenue and S. Floyd Street as shown on the development plan; and

WHEREAS, the Commission further finds that, although the property is located in the Campus Form District, the properties surrounding the subject property are developed in a traditional pattern with minimal or no setbacks; the setbacks of the new structure on the property are consistent with the existing setbacks on surrounding properties; the proposed buildings on the subject property will be constructed with a high level of architectural design that blends the existing industrial character of the area with the more traditional architecture found on and around U of L's campus; and there is a significant amount of excess right-of-way along E. Brandeis Avenue separating the proposed development from the roadway; therefore, granting the requested variance will not alter the essential character of the general vicinity; and

WHEREAS, the Commission further finds that the proposed variance will not cause a hazard or nuisance to the public because the resultant setback will be consistent with setbacks in the vicinity; the location of the building will continue the traditional pattern of development found in the area; the properties to the north and east of the site contain an industrial uses and there are no residential properties in direct proximity to site; and

WHEREAS, the Commission further finds that the granting the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because it will allow the proposed building to be consistent with the pattern of development in the general vicinity and will not cause any adverse impacts to surrounding properties; and

WHEREAS, the Commission further finds that special circumstances exist that do not generally apply to land in the general vicinity because the subject property is an irregularly-shaped corner parcel located in a transitional area between an old, declining industrial area and the University, and is surrounded entirely by non-residential properties, a railroad, and an LG&E facility; the Traditional Neighborhood Form District regulations require only residential buildings to

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observe a 15-foot front yard setback, while mixed-use and non-residential structures may be located on the property line; thus, if the proposed building incorporated a non-residential use, the setback variance would not be required; and there is a substantial amount of excess right-of-way along E. Brandeis Avenue which serves to separate the proposed building from the roadway; and

WHEREAS, the Commission further finds that the strict application of the regulations would deprive the applicant of the reasonable use of the land and create an unnecessary hardship because the applicant will be unable to develop the land in a manner consistent with properties in the surrounding area; the irregular shape of the parcel, being adjoined by a railroad on one side, an LG&E facility on another, and having two roadway frontages make it extremely difficult to comply with the setback requirements on all sides of the property; the applicant is not responsible for these conditions, and therefore, the circumstances giving rise to the variance are not the result of actions taken by the application subsequent to the adoption of the regulations from which relief is sought; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, portions of the staff report, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore
be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from Chapter 5.2.2, Table 5.2.2 of the Land Development Code to allow the building to encroach into the required 15' front yard along East Brandeis Avenue.

The vote was as follows:

YES: Commissioners Blake, Brown, Tomes, Jarboe, Kirchdorfer, Turner, White, and Peterson.

NO: No one.

NOT PRESENT: Commissioners Hughes and Proffitt.

ABSTAINING: No one.

Variance #2: Variance from Chapter 5.2.2, Table 5.2.2 of the Land Development Code to allow the building to exceed the 45-foot maximum height by 40 feet

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On a motion by Commissioner White, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission (“Planning Commission”) finds that the requested variance to permit the proposed structure to be 85 feet in height will not adversely affect the public health, safety or welfare or alter the essential character of the vicinity because the Campus Form District allows nonresidential structures to be 150 feet in height, but limits the height of residential structures to 45 feet; the subject property is located on the northwest corner of the intersection of E. Brandeis Avenue and S. Floyd Street, across from University of Louisville’s Belknap campus; the properties further to the north along S. Floyd Street are industrial in nature and will not be adversely affected by the requested variance; directly to the west is a railroad, and across S. Floyd Street to the east are properties zoned EZ-1, which contain large warehouse buildings; the proposed building height is consistent with other residential buildings on U of L’s campus, including Unitas Towers (11 stories), University Tower Apartments (11 stories), and Louisville Hall (6 stories); the proposed building will incorporate site design and architectural quality compatible with the character of the surrounding area, which blends the existing industrial character of the surrounding area with the more traditional architecture found on and around U of L’s campus; the building facades will be constructed using a mixture of materials, including brick and glass, and will incorporate architectural features including windows and entryways consistent with traditional development in an urban setting; the building façade will be articulated to create an interesting streetscape; and sidewalks will be available along E. Brandeis Avenue and S. Floyd Street; and

WHEREAS, the Commission further finds that proposed variance will not cause a hazard or nuisance to the public or cause an unreasonable circumvention of the requirements of the zoning regulations because the site is surrounded by industrial uses, and LG&E facility, and a railroad track; there are no residential uses in the immediate area that will be impacted by the proposed development; the building is designed to be compatible with the pattern of development of the area and will incorporate architectural features that will complement the character of the surrounding area; and the proposed development represents a significant investment in the redevelopment and rehabilitation of an older and declining neighborhood in a manner that is consistent with the form district; and

WHEREAS, the Commission further finds that special circumstances exist that do not generally apply to land in the general vicinity which are not the result of actions taken by the application subsequent to the adoption of the regulations

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from which relief is sought because the subject property is an irregularly-shaped corner parcel located in a transitional area between an old, declining industrial area and the University, and is surrounded entirely by non-residential properties, a railroad, and an LG&E facility; the Campus Form District regulations limit only residential buildings to 45 feet in height, while nonresidential structures may be 150 feet in height; and there are several residential structures on the U of L campus that exceed 45 feet in height; and

WHEREAS, the Commission further finds that if the requested variance is not granted, the applicant will be unable to develop the land in a manner consistent with properties in the surrounding area; a substantial number of dwelling units would be lost, making the project financially infeasible; therefore, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and create an unnecessary hardship; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, portions of the staff report, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore
be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from Chapter 5.2.2, Table 5.2.2 of the Land Development Code to allow the building to encroach into the required 15' front yard along East Brandeis Avenue.

The vote was as follows:

YES: Commissioners Blake, Brown, Tomes, Jarboe, Kirchdorfer, Turner, White, and Peterson.

NO: No one.

NOT PRESENT: Commissioners Hughes and Proffitt.

ABSTAINING: No one.

- **Waiver #1: Landscape waiver from Chapter 10.2.4 of the Land Development Code to reduce the required 15' landscape buffer along the north property perimeter to 5'**

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- **Waiver #2: Landscape waiver from Chapter 10.2.4 of the Land Development Code to reduce the required 15' landscape buffer along the west property perimeter to 10'**

On a motion by Commissioner White, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission ("Planning Commission") finds that the requested waivers of Section 10.2.4. of the Land Development Code to reduce the 15-foot landscape buffer area (LBA) to 5 feet along the north property line adjacent to the LG&E facility, and to 10 feet along the west property line adjacent to the railroad will not adversely affect adjacent property owners because the properties directly to the north and west of the subject site where the landscape waiver is requested contain an LG&E electric substation and a railroad line, respectively; the properties further to the north and across S. Floyd Street to the east are all zoned EZ-1 and contain industrial uses; the surrounding properties are developed in a traditional urban pattern with minimal or no setbacks or landscape buffer areas; the proposed development will meet tree canopy requirements off site within the excess right-of-way along E. Brandeis Avenue, and street trees will be provided, as possible, along the S. Floyd Street frontage; and

WHEREAS, the Commission further finds that the requested waivers comply with the Cornerstone 2020 Comprehensive Plan because the proposed use is consistent with the Campus Form District, which encourages a mixture of uses that serves the daily needs of residents and employees in the campus, unique building and site design elements, a high level of pedestrian and transit access, and high quality design of buildings; outdoor lighting and signage will comply with Land Development Code requirements; an LG&E substation is located north of the site, large warehouse buildings are located to the east, and a railroad is located immediately west of the subject property, and, therefore, the proposed development will create no adverse traffic, noise, lighting, or other impacts to surrounding properties; and

WHEREAS, the Commission further finds that the requested waivers are the minimum necessary to afford relief to the applicant because the proposed development is a redevelopment of an old industrial site, which contains no existing landscaping or landscape buffer areas; the site is an irregularly-shaped parcel, further making compliance with the required landscape buffer area unfeasible; and in order to develop the site as proposed while providing sufficient parking, appropriate access, and vehicle maneuvering area, the requested landscape waivers along the north and west property lines are required; and

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WHEREAS, the Commission further finds that the irregular shape of the parcel, being adjoined by a railroad on one side, an LG&E facility on another, and having two roadway frontages, makes it difficult to comply with the landscape requirements on all sides of the property; the entrance and access drive from S. Floyd Street are in the most appropriate location, being as far from the intersection of S. Floyd Street and Cardinal Boulevard as possible; if the requested waiver is not granted, the applicant would be unable to reasonably develop the property in a manner consistent with surrounding properties; therefore, the strict application of the regulations would deprive the applicant of the reasonable use of the land and create an unnecessary hardship; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, portions of the staff report, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore
be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Landscape waiver from Chapter 10.2.4 of the Land Development Code to reduce the required 15' landscape buffer along the north property perimeter to 5 feet (Waiver #1) and the requested Landscape waiver from Chapter 10.2.4 of the Land Development Code to reduce the required 15-foot landscape buffer along the west property perimeter to 10 feet (Waiver #2).

The vote was as follows:

YES: Commissioners Blake, Brown, Tomes, Jarboe, Kirchdorfer, Turner, White, and Peterson.

NO: No one.

NOT PRESENT: Commissioners Hughes and Proffitt.

ABSTAINING: No one.

Detailed District Development Plan and binding elements

On a motion by Commissioner White, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the site is preserving the existing tree canopy along East Brandeis Avenue.; and

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WHEREAS, the Commission further finds that the site is providing for all types of transportation throughout the site; and

WHEREAS, the Commission further finds that open space provisions are met on the property with the proposed interior courtyard and recreational open space area; and

WHEREAS, the Commission further finds that adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community are provided. MSD has preliminarily approved the proposal; and

WHEREAS, the Commission further finds that the site is compatible with the adjacent lots as the site is providing all required planting and screening materials and the proposed setback and height are within the range of existing structures along the East Brandeis and Cardinal corridor; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, portions of the staff report, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore
be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the District Development Plan, **ON CONDITION** that the current binding elements are eliminated, and **SUBJECT** to the following binding elements:

Existing Binding Elements (TO BE ELIMINATED)

1. ~~No outside storage will be permitted on the site. Storage of materials will be only within the building.~~
2. ~~The development will be constructed in accordance with the approved district development plan.~~
3. ~~The size and location of any proposed advertising signs and landscaping plans must be approved by the Urban Renewal Commission prior to issuance of any sign permits.~~
4. ~~The plan must be reapproved by the Water Management Section of the Jefferson County Department of Public Works and Transportation, the~~

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~~Department of Traffic Engineering, and the City of Louisville Public Works Department before building permits are issued.~~

- ~~5. Unless use in accordance with the approved plan and binding elements has been substantially established within one year from the date of approval of the plan or rezoning whichever is later, the property may not be used in any manner until such time as a district development plan has been approved by the Planning Commission.~~

Binding Elements TO BE ADOPTED:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The density of the development shall not exceed 66 dwelling units per acre **(105 units on 1.6 acres)**.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

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- c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
7. The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.

The vote was as follows:

YES: Commissioners Blake, Brown, Tomes, Jarboe, Kirchdorfer, Turner, White, and Peterson.

NO: No one.

NOT PRESENT: Commissioners Hughes and Proffitt.

ABSTAINING: No one.